

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

* * *

MITCHELL KEITH GOODRUM,

Plaintiff,

v.

STATE OF NEVADA, *et al.*,

Defendants.

Case No. 3:22-cv-00221-MMD-CLB

ORDER

I. SUMMARY

Pro se Plaintiff Mitchell Keith Goodrum appears to be attempting to sue the state court judge who presided over a criminal case in which he was the defendant for purported bias. (ECF No. 1-1 at 1, 5-53.) Before the Court is the Report and Recommendation (“R&R”) of United States Magistrate Judge Carla L. Baldwin, recommending the Court dismiss this case without prejudice because Plaintiff did not timely pay the filing fee or complete an *application to proceed in forma pauperis* (“IFP Application”), contrary to a prior order ordering him to do so. (ECF No. 4.) Goodrum filed an objection (ECF No. 5), and then a motion to stay (ECF No. 6) and a motion for extension of time (ECF No. 7), both generally contending that prison officials took a box of legal documents from him. As further explained below, the Court will dismiss this case without prejudice because Goodrum did not properly initiate it or persuasively explain why he did not follow Judge Baldwin’s order.

II. BACKGROUND

Goodrum initiated this action by filing a document styled as a ‘Motion To Move Case No. 22-10DC-0019 from Tenth Judicial District Court to U.S. District Court for the District of Nevada.’ (ECF No. 1-1 at 1.) He did not pay the filing fee or attach a completed IFP Application at the time he filed this initiating document. He instead attached a copy

1 of a state-court complaint. (*Id.* at 5-53.) Judge Baldwin ordered him to pay the filing fee
2 or a completed IFP Application by September 30, 2022, and warned him she would
3 dismiss the case if he did not timely comply. (ECF No. 3.) Goodrum did not timely comply,
4 so Judge Baldwin issued the R&R on October 7, 2022, recommending the case be
5 dismissed without prejudice—and giving him until October 21, 2022, to file an objection.
6 (ECF No. 4.)

7 Goodrum filed his objection on October 11, 2022. (ECF No. 5.) In it, Goodrum asks
8 that his case not be dismissed, states that he got the financial certificates necessary to
9 support his IFP Application as quickly as he could, and mentions he suffered a slip and
10 fall for which he was hospitalized, contributing to further delay. (*Id.* at 1-2.) He attaches
11 the IFP Application he submitted in another case, Case No. 3:22-cv-00399-ART-CSD, to
12 his objection as well. (*Id.* at 3-5.) He then appears to attempt to submit an IFP application
13 for this case, along with supporting documentation, by including part of another copy of
14 the IFP Application he submitted in Case No. 3:22-cv-00399-ART-CSD with the header
15 blacked-out, and a copy of Judge Baldwin’s R&R. (*Id.* at 6-93.)

16 In November 2022, Goodrum filed a motion to stay this case for 90 days because
17 staff at the Northern Nevada Correctional Center (“NNCC”) have allegedly taken a box of
18 evidence from him. (ECF No. 6.) In December 2022, Goodrum filed another motion
19 essentially requesting another 90-day stay because NNCC staff have still not given him
20 his box of evidence back. (ECF No. 7.)

21 **III. DISCUSSION**

22 While the Court reviews Judge Baldwin’s recommendation to dismiss this case *de*
23 *novo* because Goodrum specifically objects to it, see 28 U.S.C. § 636(b)(1), the Court
24 agrees with Judge Baldwin that this case should be dismissed. The Court will accordingly
25 accept and adopt the R&R, overrule Goodrum’s objection, and deny his two motions
26 regarding the allegedly missing box of evidence as moot.

27 First, this case has an uncurable jurisdictional defect best resolved by dismissal
28 without prejudice. Plaintiff did not file a complaint to initiate this case; he filed a complaint

1 in state court and then filed a one-sentence statement to initiate this case—to the extent
2 it was assigned a case number—stating that he was ‘moving’ the case from state court
3 to this court (ECF No. 1-1 at 1), apparently after receiving word from the Churchill County
4 Sheriff that they were unable to serve the state-court judge Goodrum was attempting to
5 sue in state court (*id.* at 2). While a defendant may remove a case from state court to
6 federal court, see 28 U.S.C. § 1446, a plaintiff may not. To effect Goodrum’s intent,
7 Goodrum would likely have had to have obtained a dismissal of his state court case, and
8 filed a new complaint with this Court.

9 But Goodrum did not do that. Indeed, he never filed a complaint with this Court.
10 Thus, Goodrum never properly initiated a case that the Court would have jurisdiction to
11 adjudicate. See Fed. R. Civ. P. 3 (“A civil action is commenced by filing a complaint with
12 the court.”); see also *Escobedo v. Applebee’s*, 787 F.3d 1226, 1232 (9th Cir. 2015) (same,
13 also explaining that a plaintiff must either pay the filing fee or complete an IFP
14 Application); see also *Jane Doe S. v. Vashon Island Sch. Dist.*, 286 F. App’x 375, 376
15 (9th Cir. 2008) (“The district court properly concluded that it lacked jurisdiction over Ms.
16 S.’s ‘Petition for Review’ because the Petition challenges a new administrative decision
17 rendered after judgment in the underlying action and thus Ms. S. was required to bring a
18 new civil action. See 20 U.S.C. § 1415(i)(2)(A) (providing that a party may bring a civil
19 action to challenge an administrative decision under the IDEA); Fed. R. Civ. P. 3 (“A civil
20 action is commenced by filing a complaint with the court.”).”).

21 Second, Goodrum does not dispute that he did not timely comply with Judge
22 Baldwin’s order to either pay the filing fee or complete an IFP Application. He instead tries
23 to offer an IFP Application for the first time in his objection to the R&R, five months after
24 he attempted to initiate this case and nearly two weeks after the deadline Judge Baldwin
25 set for him—indeed, after she issued the R&R. (ECF No. 5.) But Judge Baldwin’s
26 recommendation was correct at the time she made it because there was no sign Goodrum
27 was going to attempt to comply with her prior order, and either payment of the filing fee
28

1 or a complete and accepted IFP Application are prerequisites to filing suit in federal court.
2 See *Escobedo*, 787 F.3d at 1232.

3 Third, Goodrum does not include a complete IFP Application specific to this case
4 with his objection in any event. (ECF No. 5.) Goodrum instead appears to have copied an
5 application he submitted in another case (*id.* at 6-7), and did not include either a Financial
6 Certificate or Acknowledgement specific to this case (*compare id.* at 6-7 with *id.* at 3-5
7 (including more pages with signatures)).

8 Fourth, Goodrum does not provide a sufficiently specific explanation as to why he
9 waited so long to even attempt compliance with Judge Baldwin's order, merely stating in
10 general terms NNCC staff delayed in getting him documents that he fell and was injured—
11 but not for how long, and does not explain what about his medical condition made him
12 unable to comply with Judge Baldwin's order during that time. (*Id.* at 1-2.)

13 In sum, Goodrum never properly initiated this case and never complied with Judge
14 Baldwin's order. The Court accordingly agrees with Judge Baldwin that dismissal is the
15 appropriate next step here. However, the dismissal is without prejudice so that Goodrum
16 may attempt to properly file a new case in this Court against the state court judge¹ by
17 simultaneously filing a complaint, and either paying the filing fee or filing a complete IFP
18 Application simultaneously with any new complaint he files. In other words, the Court is
19 giving Goodrum another chance, but he must take that chance—if at all—in a new case
20 because the Court lacks jurisdiction over this one that was never properly initiated. The
21 Court further denies Goodrum's two motions seeking either a stay or an extension of time
22 (ECF Nos. 6, 7) as moot because the Court is dismissing this case without prejudice.

23 IV. CONCLUSION

24 The Court notes that Goodrum made several arguments and cited to several cases
25 not discussed above. The Court has reviewed these arguments and cases and
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27 ¹Goodrum may wish to research the doctrine of judicial immunity before properly
28 filing a new case against a state court judge as well. See, e.g., *Ashelman v. Pope*, 793
F.2d 1072, 1075 (9th Cir. 1986) ("Judges are immune from damage actions for judicial
acts taken within the jurisdiction of their courts.") (citation omitted).

1 determines that they do not warrant discussion as they do not affect the outcome of the
2 motions before the Court.

3 It is therefore ordered that the Report and Recommendation (ECF No. 4) of United
4 States Magistrate Judge Carla L. Baldwin is accepted and adopted in its entirety.

5 It is further ordered that Goodrum's objection (ECF No. 5) is overruled.

6 It is further ordered that Goodrum's motion to stay case (ECF No. 6) is denied as
7 moot.

8 It is further ordered that Goodrum's motion for extension of time (ECF No. 7) is
9 denied as moot.

10 It is further ordered that this case is dismissed, in its entirety, without prejudice.

11 The Clerk of Court is directed to enter judgment accordingly and close this case.

12 DATED THIS 31st Day of January 2023.

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15 MIRANDA M. DU
16 CHIEF UNITED STATES DISTRICT JUDGE
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